



## North Carolina Duplication of Benefits Policy



### **Purpose:**

This Policy serves as a prevention of a duplication of benefits (DOB) and will set out steps that must be taken to prevent fraud, waste and abuse of the allocation of funds received by the State of North Carolina from the Housing Urban Development (HUD), Community Development Block Grant-Disaster Recovery (CDBG-DR) Program. The North Carolina Department of Commerce, Rural Economic Development Division (REDD), grantee and administrative agency, the North Carolina Department of Public Safety, Division of Emergency Management (EM) sub-grantee and implementing agency, its sub-recipients and contractors will utilize this policy as a guidance when determining eligibility for the CDBG DR programs. The policy is applicable to all CDBG-DR Programs.

### **Authority:**

Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121-5207 as amended. The Stafford Act provides the framework for the Federal government's role in preparing for and recovering from a disaster. Specifically, Section 312 of the Stafford Act prohibits any person, business concern, or entity from receiving "any part of such loss as which he has received financial assistance under any other program, insurance or any source".

### **Definition, 42 U.S.C. 5155(a):**

A duplication of benefits occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a recovery purpose. The amount of the duplication is the amount of assistance provided more than need.

The CDBG-DR programs administered by NCEM are subject to this Duplication of Benefit Policy. Each program will have operational procedures that contain detailed provisions that identify the documents to be provided by applicants seeking assistance, as well as the procedures for how the documents will be verified. The State's DOB Policy adheres to the guidelines published in the Federal Register/Vol.76, No. 221/Wednesday, November 16, 2011.

Regardless of the type of CDBG-DR program, the first step of the DOB calculation is to determine the amount of funds previously received or made available to assist with disaster needs. At the time of the intake/application process, persons, business concerns, and other entities receiving CDBG-DR assistance will be required to disclose all sources of disaster recovery assistance received. NCEM will require each sub-recipient or contractor to verify the amount received by reviewing source documentation. Each CDBG-DR program identified in the Action Plan substantial amendment, is required to have the necessary forms and procedures to document and address DOB. All recipients of CDBG-DR funding are required to:

1. Identify applicant's total need prior to any assistance.

2. Identify all potentially duplicative assistance.
3. Identify assistance determined not to be duplicative for the activity; such as:
  - Funds used for a different, eligible purpose.
  - Funds not available to the applicant e.g., forced mortgage payoff, contractor fraud, etc.
  - Funds from a private loan not guaranteed by SBA (see below additional guidance on SBA loans), but forgivable loans are duplicative.
  - Any other asset or line of credit available to the applicant, e.g. checking or saving accounts, stocks, etc.
4. Perform a calculation to determine the total funds available from other sources for the activity.
  - Calculate by subtracting the total assistance from the total funds needed to complete the activity.
5. Perform a calculation by subtracting the assistance from other sources (duplicative assistance from the total need for assistance.
6. Require the return of all funds when/if other funds were later received for the same purpose as the CDBG-DR funds. NCEM and contractors will monitor compliance with the agreement for a minimum of one year, by contacting the grant recipient and verifying with agencies as noted above/and or listed in the original DOB calculation.
7. Recapture funds if necessary. If additional needs were established, subsequent funds would not be considered a duplication of benefits (76 FR 221. 71062). If an additional need is not demonstrated, disaster recovery funds must be recaptured to the extent that they are more than the need and duplicate other assistance received by the beneficiary for the same purpose. If CDBG-DR funds or non-Federal funds were provided last and unknowingly create a duplication, the method of recapturing the CDBG-DR funds provided will be consistent with the Office of Management and Budget requirements (2 CFR part 200). Time-period will include an annual review of DOB as noted utilizing the State's recapture policy.

**The following represents the Basic Framework for an example for how the DOB calculation would be completed:**

1. Identify Applicants Total Need	\$100,000
2. Identify All Potentially Duplicative Assistance (e.g. received \$50,000 from insurance but \$20,000 was for personal property)	50,000
3. Deduct assistance determined to be duplicative	30,000
4. Maximum eligible award (item 1 minus item 3)	70,000
5. Program cap (if applicable)	<u>50,000</u>
6. Final award (lesser of items 4 and 5)	50,000

Eligible applicants may have previously received assistance from other sources. The following are sources of funding assistance provided for structural damage and loss that may be considered a DOB and under federal law must be deducted from the assistance provided:

- FEMA Individual Assistance for Structure (IA);
- FEMA National Flood Insurance Program (NFIP) and/or Increased Cost of Compliance (ICC);
- Private Insurance,
- Small Business Administration (SBA);
- Charity; and
- Any other funding source that may duplicate assistance.

In addition to using this framework, NCEM, sub-recipients and contractors will follow the process outlined below:

- All applicants will be required to sign a DOB Certification Form (subrogation agreement) at the time of application, agreeing to disclose, and to repay any additional funds received as compensation for damages from the declared disaster for which assistance has been provided.
- Applicants are required to sign a Consent to Release form permitting the sub-grantees, sub-recipients and contractors to request information regarding assistance received from various agencies.
- NCEM will establish data sharing agreements with federal, state, and other entities, to ensure ongoing exchange to access data files, which include previous benefits paid for real property repairs from FEMA, SBA, National Flood Insurance Program (NFIP), and private insurance, private or non-profit that will be available to sub-recipients and contractors.
- The grantee, sub-recipient and contractors will utilize a third-party verification process by sending a Consent to Release Form signed by the applicant to all agencies identified by an applicant as well as all known financial assistance resource to determine whether repair resources were received, this includes federal, state, and local, non-profit agencies and other organizations. In addition, each sub-recipient must identify the local funding that was available in the declared communities to ensure that all resources available to disaster
- In the case of third-party verification and in the absence of a non-response from agencies after three requests, the case manager will use information obtained from the applicant and through their own research efforts to acquire the needed data.
- The applicant should be asked if they ever received federal assistance if the property is in the floodplain. A third-party verification must be conducted on all properties located in a floodplain. NFIP, local register of deeds offices and other resources should be researched to determine whether the property ever received federal disaster assistance. If the home received previous federal assistance and did not maintain flood insurance the property is not eligible for CDBG-DR assistance.
- Sub-recipients when analyzing receipts should develop a system to input receipts received both eligible and ineligible to document the total amount eligible and ineligible.
- The policy, “if the Homeowner applied for and was offered an SBA loan but declined all or part of the loan, the amount of the loan declined may be considered a DOB” is revised based on clarification received from HUD on August 30, 2018 as it relates to the Bipartisan Act dated January 3, 2018 and 115 Congress 1<sup>st</sup> Session H.R.302, January 5, 2017. Until further notice, the CDBG-DR program will assist homeowners who received an SBA loan, but declined the assistance as follows: (1) the State can assist homeowners who have declined SBA loans; this assistance does not count against the homeowner in the DOB calculation; (2) the State must document that assistance provided to the homeowner was necessary and reasonable even though the SBA loan was available to them; (3) this only applies to homeowners that applied for an SBA loan, were approved, but declined the loan in its entirety; the homeowner cannot have used any portion of the SBA loan.
- There may be an exception to the above SBA guidance, if the homeowner has a hardship that would make it difficult or impossible to repay the full SBA loan, therefore, the Homeowner must document the reason they declined the loan on the NCEM’s

Homeowner SBA Hardship Documentation form. NCEM on a case by case basis will make the determination on whether the household qualifies for the Hardship Determination.

- Utilize a DOB checklist for each applicant's file to track activity applicable to the type of assistance provided (Housing, Infrastructure, or Economic Development).
- Complete a Duplication of Benefit Review Worksheet (analysis of DOB): the worksheet will be reviewed with the applicant; the applicant and the case manager or other designated staff are required to execute and date the worksheet. Make the final DOB analysis available to DOC, HUD and any auditor (OIG or independent)
- Any DOB identified should be adjusted from the submitted claim prior to payment authorization.
- All files should undergo a thorough quality assurance and control (QA/QC) review prior to sending a letter of approval for CDBG-DR benefits for each applicable program.
- DOB documentation, QA/QC records should be stored electronically in each Sales Force file or in a system of record (approved by EM). These records must be accessible to EM, REDD, HUD and other state, federal regulatory agencies.

**DOB Attachments:**

- DOB Certification Form
- DOB Consent to Release Form
- Verification of Receipts Process
- Due Diligence and Inactive Status
- Policy Exception Form
- Sample DOB Applicant Worksheet
- Sample DOB Worksheet Final Approval
- SBA Hardship Determination

# North Carolina CDBG-DR DOB

## *Revision History:*

Version	Date	Page	Description
2	5.25.18	5	Added revision history sheet and state and HUD housing logo
3	9.7.18	3	Clarification SBA Hardship per HUD guidance

